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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,572	12/05/2003	Ian Zenoni	2050.100/US1	8936
44367	7590	09/10/2009		
SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV P.O. BOX 2938 MINNEAPOLIS, MN 55402-0938			EXAMINER SCHNURR, JOHN R	
			ART UNIT 2421	PAPER NUMBER
			NOTIFICATION DATE 09/10/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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request@slwip.com

Office Action Summary

Application No.

10/728,572

Applicant(s)

ZENONI, IAN

Examiner

JOHN SCHNURR

Art Unit

2421

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to the Amendment After Non-Final Rejection filed 05/20/2009. Claims 1-17 are pending and have been examined.

Response to Arguments

2. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims **1-6, 9-14 and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Russ et al. (US 2004/0049790)**, herein Russ, in view of **Su (US 2002/0199190)** further in view of **Sequeira (US 2001/0000194)**.

Consider **claim 1**, Russ clearly teaches a method for sending interactive textual and graphical data from a content provider to a set-top box through a satellite broadcast system, said method comprising:

receiving said textual data and said graphical data from said content provider in a server that is located in an uplink center; (**Fig. 1: Content servers 102 and 104 provide data to BCS server 106, [0018] and [0019]. The BCS server 106 broadcasts the data over a satellite network, [0021]. The data may include program guide data, which includes textual and graphical data, [0015].**)

retrieving said textual and said graphical data from said server into an application streamer coupled to said server;
using said application streamer to create a file directory structure comprising at least one data file and at least one graphical data file; (**Fig.**

4: The BCS server 106 creates a hierarchical file system containing all data available from the content servers, [0028]-[0030].)

using said application streamer to create a node tree on a broadcast streamer by mirroring said file directory structure such that each file in said file directory structure becomes a node with a corresponding priority in said node tree on said broadcast streamer; **(Each of the files in the file system are assigned a position for broadcast, [0031]-[0032]. The BCS server 106 broadcasts higher priority files more frequently, [0033].)**

allocating bandwidth and transmission frequency to each node of said node tree based on the corresponding priority of each said node; **(The BCS server 106 broadcasts certain files more frequently, [0033].)**

using said broadcast streamer to multiplex said nodes of said node tree with a regular broadcast stream resulting in an interactive data stream; **(The carousel objects are received in-band, [0036].)**

However, Russ does not explicitly teach converting said textual data and said graphical data into interactive data in said application streamer, compatible with the set-top box.

In an analogous art, Su, which discloses a system for broadcasting a carousel of data, clearly teaches converting said textual data and said graphical data into interactive data in said application streamer, compatible with the set-top box.

(Fig. 4: H20 248 converts the content into client readable content, [0034].)

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Russ by converting text data and graphical data into set-top box compatible interactive data, as taught by Su, for the benefit of broadcasting data requiring less bandwidth and less client processing ([0010] Su).

Russ further teaches the content servers creating and modifying directories on the BCS server ([0032]) and assigning higher priority to certain files ([0033]). However, Russ does not explicitly teach the directories being structured based on file priority.

In an analogous art, Sequeira, which discloses a system for broadcasting carousel data, clearly teaches storing an indication of file priority with the file in the directory structure, the priority determined using information about the file ([0087]).

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Russ by including priority of the file in the directory structure, as taught by Sequeira, for the benefit of allowing the content servers to select the priority.

Consider **claim 2**, Russ combined with Su and Sequeira, as in claim 1, clearly teaches using set-top box application software to read said interactive data stream and display said interactive data stream on a user's display device; **([0036] Russ)** and monitoring said application streamer with a computer. **([0032] Russ)**

Consider **claim 3**, Russ combined with Su and Sequeira, as in claim 1, clearly teaches said step of retrieving said textual data and said graphical data from said server further comprises querying said server for new data. **(The network operator retrieves the content from services 200, [0034] Su.)**

Consider **claim 4**, Russ combined with Su and Sequeira, as in claim 1, clearly teaches said step of converting said textual data and said graphical data into said interactive data compatible with the set-top box further comprises creating system alerts. **([0095] Su)**

Consider **claim 5**, Russ combined with Su and Sequeira, as in claim 1, clearly teaches said step of creating system alerts comprises creating alerts upon detection of errors within said broadcast system using SNMP traps, event logging, and visual queues in a graphical user interface. **([0039], [0040] and [0095] Su)**

Consider **claim 6**, Russ combined with Su and Sequeira, as in claim 1, clearly teaches said step of monitoring said application streamer by a computer further comprises monitoring said application streamer, configuring said application streamer, making any necessary changes to said application streamer. **(The BCS server 106 monitors the files being added and deleted from the file system and modifies the files being broadcast, [0031] and [0032] Russ.)**

Consider **claim 9**, see claim 1.
Consider **claim 10**, see claim 2.
Consider **claim 11**, see claim 3.
Consider **claim 12**, see claim 4.
Consider **claim 13**, see claim 5.
Consider **claim 14**, see claim 6.

Consider **claim 17**, Russ combined with Su and Sequeira, as in claim 1, clearly teaches sending said interactive data stream to said set-top box. **([0036] Russ)**

5. Claims **7, 8, 15 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Russ et al. (US 2004/0049790)** in view of **Su (US 2002/0199190)** in view of **Sequeira (US 2001/0000194)**, as applied to claim 6 above, further in view of **Standridge et al. (US 6,618,353)**, herein Standridge.

Consider **claim 7**, Russ combined with Su and Sequeira, as in claim 6, clearly teaches monitoring the application streamer.

However, Russ combined with Su and Sequeira, as in claim 6, does not explicitly teach using a DCOM user interface over a network connection.

In an analogous art, Standridge, which discloses a system for distributing video data, clearly teaches using a DCOM user interface over a network connection.
(column 2 line 59 to column 3 line 14)

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Russ combined with Su and Sequeira by using a DCOM user interface over a network connection, as taught by Standridge, for the benefit of automatically handling the details of network communication protocols.

Consider **claim 8**, Russ does not specifically teach said step of monitoring said application streamer further comprises monitoring the connection to said broadcast streamer, monitoring the connection to said server, and monitoring the status of said interactive data stream on said broadcast server.

Su additionally teaches monitoring said application streamer further comprises monitoring the connection to said broadcast streamer, monitoring the connection to said server, and monitoring the status of said interactive data stream on said broadcast server. **([0039], [0040] and [0095] Su)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Russ combined with Su, Sequeira and Standridge by monitoring the connection to said broadcast streamer, monitoring the connection to said server, and monitoring the status of said interactive data stream on said broadcast server, as further taught by Su, for the benefit of detecting errors.

Consider **claim 15**, see claim 7.
Consider **claim 16**, see claim 8.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **JOHN SCHNURR** whose telephone number is (571)270-1458. The examiner can normally be reached on **M-F 9a-5p**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421

JRS